IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 22997 of 2004

Between:

Aleti (Kolisetty) Sakhubai W/o Laxmaiah
R/o H. No. 3-1-42, MRO Office Road, Suryapet Town, Nalgonda District

..... PETITIONER

AND

1 The Union of India rep by Dy. Secretary, Ministry of Home Affairs,

Loknayak Bhavan, (Hyderabad F.F. cell) New Delhi
2 The Government of A.P., rep by Joint Secrtary to Government Revenue (FF)

Department, Secretariat, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ order or direction more particularly one in the nature of Writ of Mandamus declaring the Lr. No. 112/86/2004. FF(HC), dt 19-8-2004, passed by the1st respondent herein as arbitrary, illegal in violation of Article 14 of the Constitution of India in violation of the Swatantra Sainik Samman pension scheme 1980 and to issue consequential direction to the 1st respondent to re-consider the case of the petitioner for granting the pension under the Swatantra Sainik Samman Pension Scheme 1980 and grant the pension w.e.f. dt of application submitted by the petitioner herein and pass such other order or orders

Counsel for the Petitioner: A.YADAGIRI REDDY

Counsel for the Respondent No.1: SC FOR CENTRAL GOVT.

Counsel for the Respondent No.2: GP FOR REVENUE

The Court made the following :

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ORDER:

This writ petition is filed by Aleti (Kolisetty) Sakkubai questioning the action of the respondents in not considering her claim for grant of pension under Swatantra Sainik Samman Pension Scheme 1980 (for brevity 'the scheme'). She has filed her sworn affidavit in support of the writ petition. It is averred in the affidavit that she participated in Anti Nizam Government Movements for merger of Hyderabad State in the Indian union. She made an application for grant of freedom fighter pension to the Central Government, first respondent herein. The State Government, second respondent herein, after making enquiry through District Collector, Nalgonda, recommended her case to the Central Government through letter No.21745-/FF-11/A(2) 2004, dated 04-07-2003. The Central Government pointed out certain discrepancies in her application and returned the same for necessary clarifications. Her application came to be forwarded to the Central Government after rectifying the defects. Despite the recommendation of the State Government, her case was rejected for payment of pension under the scheme and thus she approached this Court by filing the writ petition.

2. The first respondent filed counter-affidavit. One, S.K.Kohli, Section Officer in the Ministry of Home Affairs, has sworn to the counter-affidavit. It is stated in the counter-affidavit that the case of the petitioner was examined on the basis of the report sent by the State Government and rejected the claim of the petitioner due to various discrepancies indicated in rejection order dated 19-08-2004.

3. The learned counsel for the petitioner submits that the petitioner has fulfilled all the conditions stipulated under the scheme and thus she is entitled to claim pension under the scheme. Whereas, it is submitted by the learned standing counsel appearing on behalf of the Central Government, first respondent herein, that the petitioner has not fulfilled the conditions stipulated in the Scheme and thus her claim has been rightly rejected and the order of rejection is not required to be interfered in this writ petition. As seen from the records, the first respondent pointed out the various defects in the application submitted by the petitioner under the scheme and

directed her to rectify the said objections under letter dated 19-08-2004. The first respondent considered the application of the petitioner and rejected the same since the petitioner failed to satisfy the essential conditions stipulated under the Swatantra Sainik Samman Pension Scheme 1980. Clause 2.3 of the scheme reads as follows:

> "**2.3 Underground:-** A person who on account of his participation in freedom struggle remained underground for more than six months provided he was;
>
> A. a proclaimed offender; or
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> B. one on whom an award for arrest was announced; or
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> C. one for whose detention, order was issued but not served.
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> Explanation: Voluntary underground suffering or self exile suffering for party work under the command of the party leaders, are not covered as eligible sufferings for pension under the scheme.
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> The claim of underground suffering is considered subject to furnishing of the following evidence:-
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> (i) Documentary evidence by way of Court's/Govt.'s orders proclaiming the applicant as an absconder, announcing an award on his head or for his arrest or ordering his detention. OR
>
> (ii) Where records of the relevant period are not available, a non-availability of records certificate (NARC) from the concerned State/Union territory Administration along with a Personal Knowledge Certificate (PKC) from a prominent freedom fighter who has proven Jail suffering of a minimum two years and who happened to be from the same administrative unit."

4. Admittedly, the petitioner has no documentary evidence to prove as to fulfillment of any of the conditions stipulated under clause 2.3 of the scheme. In such a case, the only document the petitioner is required to place on record is the Personal Knowledge Certificate from a prominent freedom fighter, who has proven jail suffering of a minimum two years and who happened to be from the same administrative unit. Admittedly, the petitioner is not furnished the Personal Knowledge Certificate from a freedom fighter who has proven jail suffering of a

minimum two years and who happened to be from the same administrative unit. The first respondent-Central Government considered these facts and rejected the claim of the petitioner. The rejection order passed by the first respondent cannot be found fault.

5. Accordingly, the writ petition is dismissed. No costs.

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B.SESHASAYANA REDDY, J.

..... REGISTRAR

To

1 The Dy. Secretary, Ministry of Home Affairs, the Union of India,

Loknayak Bhavan, (Hyderabad F.F. cell) New Delhi.

2 The Joint Secretary to Government Revenue (FF)

Department, the Government of A.P., Secretariat, Hyderabad

3 Two CCs to G.P. for Revenue, High Court Buildings, Hyderabad (OUT).

2 CD copies

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